

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1510 OF 2006

Sanjay Shreechand Dass

...Applicant

Vs.

State of Maharashtra.

...Respondent.

Mr Subhash Jha for the applicant.

Ms. Rajeshree M. Gadhvi, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 28th April, 2006

P.C.

1. Heard the learned Counsel for the applicant and

the learned APP for the State.

2. The applicant was arrested in connection with C.R. No. 262 of 2005 registered at D.B. Marg Police Station for the offence punishable under section 489(b),(c) read with section 34 of the Indian Penal Code.

3. The investigation was carried out by the Naval Authorities and the explanation given by the applicant was accepted. It appears that the applicant was travelling in a car and the co-accused was also in the said car. It is alleged that certain counterfeit

notes were found in his pocket. The explanation which was given by the applicant was that one Mr. Rampal had lent an amount of Rs 10,000/- to one Mr. Ahmed who was working at INHS Asvini @ Rs 15% on 01/11/2005 and the said Mr. Ahmed returned the money to him on 20/11/2005 in a bundle hundred rupees notes. In the FIR, Rampal confessed to the civil police about his involvement and modus operandi in commission of the said offence. The present applicant, however, was a guest of Mr. Rampal and nothing was recovered from him. However, according to the police, recovery has been made from the present applicant.

4. Be that as it may. The charge-sheet has been filed. The applicant has allegedly committed an offence under section 489(b) and (c). The offence under section 489(c) is a bailable offence and for the purpose of establishing the offence under section 489(b) it has to be proved that the accused had an intention and knowledge of using the notes, knowing that they are counterfeit currency notes. Mere possession of the notes by itself does not constitute an offence under section 489(b) or (c). Since the trial is not likely to commence within a short time, in my view, there is no point in keeping the applicant in jail.

5. The applicant, therefore, be released on bail in the sum of Rs 10,000/- with one or two sureties in the like amount. The applicant shall not tamper with the evidence or threaten any of the witnesses. The applicant shall report to the concerned Police Station once in a month.

6. The Trial Court shall not be influenced by any observation made by this Court while deciding this application and the same may not be construed as an expression of opinion on the merits of the case. The Trial Court shall decide the case on its own merits and in accordance with law.

7. Application is accordingly disposed of.

V.M. KANADE, J.